

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**CIVIL ACTION NO. 2005-11348 and
NO. 2005-11603 (Consolidated)**

**JOSEPH SCHMITT,
Plaintiff,**

v.

**ROBERT MURPHY, ET AL.,
Defendants.**

**DEFENDANTS' MOTION TO STAY DISCOVERY
PENDING HEARING ON MOTIONS
FOR SUMMARY JUDGMENT**

The Defendants hereby move to stay all further proceedings pending the outcome of the Motions for Summary Judgment. The Plaintiff filed a Motion for Summary Judgment on December 7, 2007. The Defendants intend to file a responsive Motion to Dismiss, or, in the alternative, for Summary Judgment on or about December 28, 2007. The interests of judicial economy would best be served by a stay of all matters pending the outcome of these motions.

Should the Court grant the Defendants' motion, this would obviate dealing with the Plaintiff's various motions relating to discovery. Even in the unlikely event that the Plaintiff's Complaints were not entirely dismissed, the Court's ruling on the Defendants' dispositive motion would frame any remaining issues and dictate the breadth of any corresponding discovery. For the reasons to be set forth in the Motion to Dismiss, or, in the alternative, for Summary Judgment, all of plaintiff's claims are dismissible as a matter of law without the need for discovery. Under such circumstances, any discovery propounded by the Plaintiff is irrelevant and constitutes an annoyance and an undue burden or expense.

Wherefore, the Defendants request that the Court stay all further proceedings in this case, including discovery, pending a ruling on the Plaintiff's Motion for Summary Judgment and/or the Defendants' Motion to Dismiss, or, in the alternative, for Summary Judgment.

Respectfully Submitted
by Defendants Murray, Brady and Henry,

NANCY ANKERS WHITE
Special Assistant Attorney General

by: s/ BRENDAN J. FRIGAULT
Brendan J. Frigault, Counsel
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Dated: December 7, 2007

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the attached document to be served upon the Petitioner through intra-facility mail.

Joseph Schmitt, M81137
Massachusetts Treatment Center
30 Administration Rd.
Bridgewater, MA 02324

s/ BRENDAN J. FRIGAULT
Brendan J. Frigault

Dated: December 7, 2007